(Spl.-H.C.A.S.,C.D.,78-e)

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE

WRIT PETITION NO. 205 OF 2004

Office Note, Office Memoranda of Quorum, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri Sudin Usgaokar, advocate for the petitioners.

CORAM : D. G. KARNIK, J.

DATE : 28th April, 2004

P.C.:

Heard learned counsel for the petitioners. This Writ Petition is directed against the Order dated 17th March, 2004, passed by the learned Additional District Judge, on an original application made to him in the pending appeal, for appointment of a Court Commissioner. The prayer in the application reads as under:-

> "The appellant therefore prays that in exercise of powers under Order 26 Rule 9 of Civil Procedure Code, the Court be pleased to appoint any Officer of the Court as Commissioner to enter upon the suit premises and make a correct appraisal of the boundaries of the suit property in the light of the above submissions."

2. What in effect the petitioners wanted was to get a Court Commissioner appointed for the purpose of determination of the boundaries of the suit property. The petitioners ought to have described the boundaries of the property in the plaint, which they omitted to do. They did not mention the southern boundary. They want to fill up that lacuna in the pleadings through the appointment of a Court Commissioner and that too, at the appellate stage. The learned District Judge has, therefore, rightly rejected the application.

3. There is no merit in the petition. The petition is accordingly rejected.

D. G. KARNIK, J.

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